Application Package for Protecting Oregon's Waters

Introduction

The Oregon Division of State Lands (DSL) and the US Army Corps of Engineers (Corps) have specific and different regulatory roles designed to protect the waters within and on Oregon's boundaries. Protecting Oregon's waters is a cooperative effort between the applicant and regulatory agencies. This application package has been designed to assist applicants to initiate the permit evaluation process with both agencies for activities that include construction, excavation, or filling in a water of Oregon. Instructions and application forms are contained within the package. This application package also lists the activities that are typically proposed by an applicant and regulated by DSL and the Corps; the applicant's role in protecting Oregon's waters; and a description of the permit evaluation process. The state and national goal is to protect the biological, chemical, and physical integrity of Oregon's waters.

Regulated Activities

Construction, excavation, or filling in Oregon's waters, which may include streams, rivers, lakes, wetlands, or the Pacific Ocean, may require authorization (a permit) from one or both agencies *before* the project is started. Because of their value, wetlands are given special regulatory emphasis. Some common activities that may require a permit include:

a. any excavation or dredging in a stream, river channel, or Pacific Ocean
b. channel changes, realignments, or relocations
c. construction of a dock, pier, wharf, seawall, boat ramp, beach, intake or outfall structure on a stream, river, lake, or Pacific Ocean
d. placement of fill, riprap, or similar material in a stream, river, lake, wetland, or Pacific Ocean
e. constructing a dam across any waterway
f. placing fill to construct levees, roadways, and bridges in Oregon's waters
g. bank or shore stabilization projects including jetties and revetments

The Applicant's Role

Oregon's water resources were once seemingly abundant and limitless. As development intensified and technology progressed, it became apparent that individual and cumulative effects were causing negative impacts and that there was a limit to the state's water resources. State and federal regulatory programs were established to protect the public's interest in these valuable water resources. The applicant's role is to obtain the necessary permits to engineer an activity so that the water resources are wisely used and adequately protected for future generations.

Regulatory Agencies' Roles

In Oregon, DSL and the Corps administer permit programs. Their roles, when considered together, include protecting navigable waters (and the ocean); ensuring wise and beneficial water use; maintaining and enhancing water quality; protecting fish and wildlife habitat and recreation resources; and, in general, protecting the public interest. The commonly used authorities to issue permits are described below.

DSL administers the Removal-Fill Permit Program, O.R.S. 196.800 - 196.990. A major focus of this law is the protection, conservation, and best use of the water resources in the state of Oregon. This statute regulates the removal of 50 cubic yards or more of material from one location in any calendar year or the filling of a waterway with 50 cubic yards or more of material at any one location at any time. This law applies to "waters of the state," which includes the Pacific Ocean, bays, rivers, streams, and salt and freshwater wetlands.

The Corps of Engineers administers Section 10 of the Rivers and Harbors Act. This authority regulates all activities that may affect a navigable water. Section 404 of the Clean Water Act regulates the discharge of dredged or fill material in Oregon's waters. (Water quality certification (Section 401 of the Clean Water Act) must be received before a permit may be issued for activities regulated by Section 404; certification is granted by the Oregon Department of Environmental Quality.) Section 103 of the Marine Protection, Research and Sanctuaries Act regulates the transportation of dredged material for the purpose of dumping into the ocean. For activities occurring within the Oregon coastal zone, Coastal Zone Management certification issued by the Oregon Department of Land Conservation and Development is required before an application my be processed.

The Permit Review Process

The first step toward obtaining a valid permit is to apply. The joint application form that is enclosed with this package is designed to request necessary information so that a proposed activity may be adequately reviewed by those who may have an interest in or affected by the activity. It is important that your application be complete; permit evaluation will not proceed with incomplete information. Some proposed activities are considered minor by the Corps and may only require a brief review. A permit from DSL may be unnecessary if excavation or filling involves less than 50 cubic yards. Many activities will require a full public interest review. If your proposal is in that category, your proposal will be described in a joint public notice and sent to interested parties, particularly neighbors, whose interests may be affected, and state and federal agencies. The review period is usually 30 days. The purpose of the public notice is to assist the District Engineer (Corps) and DSL to determine what public interest factors need to be considered. A permit decision will be based on the need and purpose for the project in light of the public's overall welfare. In exceptional instances, a public hearing may be held. **Allow at least 60 - 90 days for the Corps and DSL to review your application.**

Preliminary Coordination

If you are unsure whether a particular action or project is regulated and requires a permit, or if you want to discuss specific concerns with any agency, please call or write. The agencies' address and telephone number are:

District Engineer
ATTN: CENPP-PE-RE
P O Box 2946
Portland, Oregon 97208-2946
503-326-7730

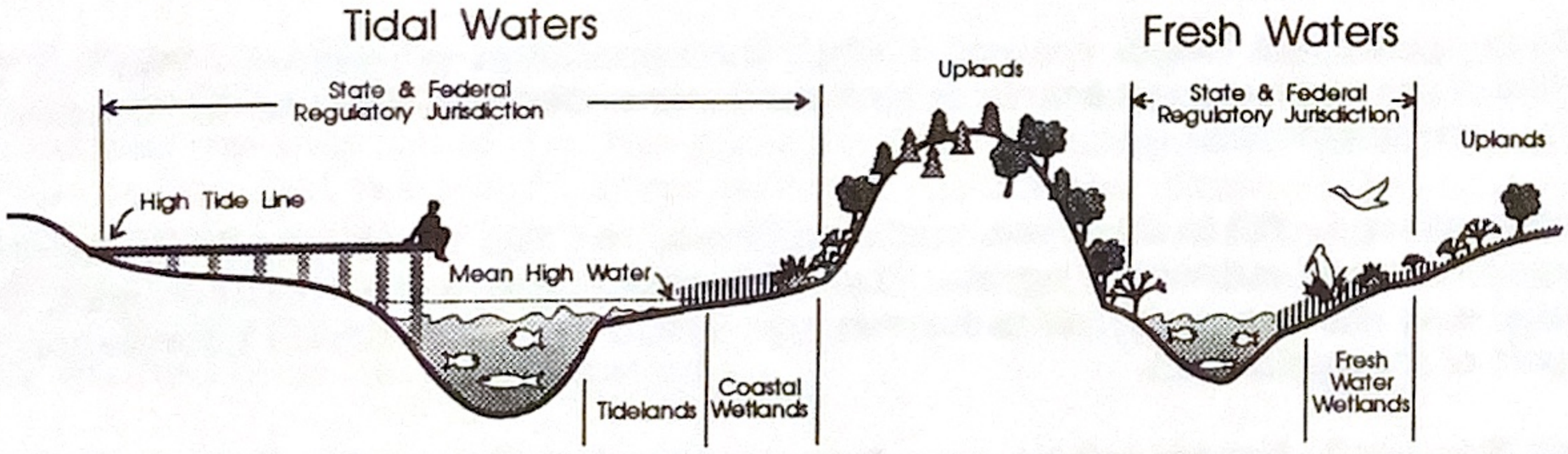
Oregon Division of State Lands
775 Summer Street NE
Salem, Oregon 97310
503-378-3805

You are encouraged to design a project and explore alternatives that will avoid or minimize adverse affects. The Corps and DSL may provide general guidance about evaluating practical alternatives.

Reporting Unauthorized Construction

There are instances where others may start or complete a project without state or federal authorization. DSL and the Corps have regulatory responsibility and authority to deal with unauthorized activities. If you are aware of an activity that may have started or is completed without a permit, you are encouraged to contact either agency to request an investigation. Specific information describing the activity, dates, names, and locations are needed; photos are helpful. Protecting Oregon's waters is a cooperative effort. Violators (those engaging in unauthorized activities) are subject to legal penalties, including fines.

The figure below depicts the general kinds of areas for which the state and federal regulatory agencies exert jurisdiction.



Additionally, reference elevations include National Geodetic Vertical Datum (NGVD) (informally called Mean Sea Level (m.s.l.)) that is commonly used in non-tidal areas and Columbia River Datum (CRD) that is a plane of reference on the Columbia River from Harrington Point upstream to Bonneville Dam and on the Willamette River from its confluence with the Columbia River to Willamette Falls at Oregon City. Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. When determining whether an area is a wetland, three parameters are assessed: hydrology (is the area saturated or inundated with water at some time during the growing season); hydric soils (are the soils those that are commonly found in wetlands); and vegetation (is their a predominance of vegetation that commonly grows in wet areas). If these three parameters are present, the area is probably a wetland — and regulated. If one of these parameters is missing and the area is disturbed, special consideration is needed to determine if the area is a wetland.

INSTRUCTIONS FOR COMPLETING THE JOINT PERMIT APPLICATION FORM

General. After completing the application form, submit a copy to the Corps, one copy to the Division, and keep one copy for your records. The address of each agency is listed on a previous page. **It is important that the application be complete and accurate.** Space on the application form is limited. If additional space is needed for any item on the application form, provide the information on a separate sheet(s) of paper and attach it to the application that is sent to each agency.

If you need assistance when completing the form, please call the Corps or DSL.

Many of the questions on the form are self-explanatory. Information provided on the application form is public record. Information disclosure is voluntary; however requested data is necessary in order to fairly evaluate the application. If necessary information is missing, the application cannot be evaluated, and the form may be returned.

Each agency will assign a number when the application is received. You will be notified of the number in an acknowledgement letter so that you may use the number in future correspondence.

Block Number 1. Fill in the name, mailing address, and daytime telephone numbers of all applicants and authorized agents. If you have designated an authorized agent, the agent(s) may act on your behalf to furnish, upon request, supplemental information in support of the application.

Block Number 2. Provide information about the project location. Try to be as complete as possible. You are encouraged to check the "Yes" circle to allow Corps or DSL personnel to enter your property. Usually you will be called before entering your property. Site visits with applicants helps permit evaluators better understand the proposal.

Block Number 4. State the project purpose and give a full description on how you plan to complete your proposal. Please be as descriptive as you can. If you need more room, continue your description on an additional sheet.

When you describe your project: Describe the kind of work or kind of facility you propose to construct. Information typically needed includes method of construction; size of area to be filled / excavated; size of construction area; dimensions and extent of structures; type, quantity, and source of fill material; disposal area of dredged or excavated material; amount of material to be excavated or dredged; specify the amount and type of vegetation that will be disturbed; description of area to be filled (*e.g.*, 300 feet of old channel will be filled or 0.35 acres of a 7.5 acre palustrine wetland will be filled); adjacent land uses; and any other pertinent information.

Drawings should show general project details so that evaluators and reviewers can obtain a full understanding of what is proposed. Avoid cluttering the drawing with too much information that causes the drawing to be difficult to read and understand.

Typical details include cross-section and top views with the dimensions of the project and the project site; project's elevation; a "north" arrow; direction of flow; name of water body or wetland (wetlands are usually adjacent to a named water body or are isolated); water elevation, particularly the ordinary high water (OHW) and/or mean high water (the tidelands) and the high tide line (be sure to indicate the source of your water datum, *e.g.*, Columbia River Datum (CRD), NGVD (informally called mean sea level); for channels or levees, show side slopes, *e.g.*, 1 vertical to 3 horizontal; and dimensions of the structure, channel, or work activity. Additionally, a title block should include the applicant's name, waterway, date, brief (2 - 4 word) description of project; and sheet number of total sheets in set, *e.g.*, sheet 2 of 4. The location map(s) must show the general and the specific areas where the project is located. A topographic (quad) map is particularly useful. This is needed to determine latitude and longitude. Identifiable or landmark features and existing structures need to be identified. The permit evaluator should be able to precisely locate the project site from the location maps. Photos (polaroid and / or aerial) of the project area are very helpful. If a site is a wetland, please submit wetland delineation data, including a map with data reference points and the wetland's boundary.

All drawings must be submitted on $8^1/_2$ X 11 paper. If you submit engineering drawings to DSL to provide better project details, submit at least 5 copies. Please review the sample drawings included in this package. They provide guidance about the kinds of information that is needed. These drawings include the minimum details that is typically needed permit evaluation, *e.g.*, vicinity map, project location map, typical cross sections and a representative top view. You may use one $8^1/_2$ X 11 sheet of paper for each project sketch or view. If drawings are drawn to scale, <u>please</u> include a bar graph scale that indicates correct dimensions.

Block Number 5. These self explanatory questions provide more specific information. Ways to minimize impacts may include reducing the size of the construction area; reducing the size of the fill / excavation area; preventing construction debris and other disturbed material (including return flows) from entering a waterway; reshaping or constructing side slopes to be at least 1 vertical to 3 horizontal; and revegetating the area, particularly the disturbed area, with native vegetation.

Block Number 6. These questions provide an opportunity to present information about how you have evaluated other designs or site locations in your effort to avoid or minimize anticipated project impacts. When your project is designed, it is best to choose the alternative that will cause the least environmental damage and still be practical and meet your basic project purpose.

Block Number 7. If a public notice will be issued for your proposal, all who may have a reasonable interest in or may be likely affected by your proposal must receive a copy of the notice. Please include the *mailing* address of all neighbors to the proposed project, including those across the stream or river, in this block. Also list any other authorizations or certificates that you have applied for and that is related to your proposal. If an authorization has been denied, please explain why.

Block Number 8. Where applicable, this block should be completed and signed by the local planning official.

Block Number 9. If your proposal is near the Pacific Ocean, you may need to comply with Oregon's Coastal Zone Management program. This block allows you to certify that you believe your proposal will comply with the program, and you must sign in this block.

Block Number 10. You **must** sign in this block. If you have an authorized agent(s), they must also sign in this block. Each application, the one sent to the Corps **and** the one sent to DSL **must** have an original, not photocopied, signature. Your signature on the application will affirm that you possess or will possess the requisite property interest to undertake the proposed activity.

Fees

The State of Oregon requires a fee for all projects except those used for erosion control. This fee is paid up-front and does not guarantee that you will receive a permit. A fee schedule is available upon request from the Division of State Lands. You will be billed for fees if it is not included with the copy of the application that is submitted to DSL. Make checks payable to the "Division of State Lands."

If the Corps of Engineers decides to issue you a Corps regulatory permit, you will be asked to remit: $100 for commercial users; $10 for individuals; and no fee for governing agencies. Wait until the Corps requests you to remit a fee. Note: the Corps fee is in addition to the fee required by the state or other agency.

Penalty: Under 18 USC Section 1001: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or devise a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Privacy Act Information

The permit application form for requesting authorization to place structures or complete work in or affecting a navigable water, to discharge dredged or fill material in any water of the United States, or to transport dredged material for the purpose of dumping into the ocean is meant to provide information to evaluate a proposal. All the information that you provide is voluntary; it is also public record. Anyone may review this information. Complete data is needed to evaluate a permit application, therefore, you are requested to provide as much information as necessary. The application may become part of the record in any litigation action by the Department of Justice involving the work or activity.

U S Army Corps of Engineers
Portland District

JOINT PERMIT APPLICATION FORM

THIS APPLICATION WILL MEET THE REQUIREMENTS OF BOTH AGENCIES

AGENCIES WILL ASSIGN NUMBERS

Corps Action ID Number _____ Oregon Division of State Lands Number _____

Date Received Date Received

District Engineer
ATTN: CENPP-PE-RP
P O Box 2946
Portland, OR 97208-2946
503/326-7730

State of Oregon
Division of State Lands
775 Summer Street NE
Salem OR 97310
503/378-3805

① Applicant Name and Address — business phone # — home phone #

○ Authorized Agent
○ Contractor
Name and Address — business phone # — home phone #

Property Owner
(if different than applicant)
Name and Address — business phone # — home phone #

② PROJECT LOCATION

Street, Road or other descriptive location

Legal Description: Quarter | Section | Township | Range

In or Near (City or Town) | County

Tax Map # | Tax Lot #

Waterway | River Mile

Latitude | Longitude

Is consent to enter property granted to the Corps and the Division of State Lands? ○ Yes ○ No

③ PROPOSED PROJECT INFORMATION

Activity Type: ○ Fill ○ Excavation (removal) ○ In-Water Structure ○ Maintain/Repair an Existing Structure

Brief Description: _____

Fill will involve _____ cubic yards annually and/or _____ cubic yards for the total project

_____ cubic yards <u>below</u> the ordinary high water or high tide line

Fill will be ○ Riprap ○ Rock ○ Gravel ○ Sand ○ Silt ○ Clay ○ Organics ○ Other

Fill Impact Area is _____ Acres; _____ length; _____ width; _____ depth

Removal will involve _____ cubic yards annually and/or _____ cubic yards for the total project

_____ cubic yards <u>below</u> the ordinary high water or high tide line

Removal will be ○ Riprap ○ Rock ○ Gravel ○ Sand ○ Silt ○ Clay ○ Organics ○ Other _____.

Removal Impact Area is _____ Acres; _____ length; _____ width; _____ depth

Estimated Start Date _____ Estimated Completion Date _____.

Will any material, construction debris, runoff, etc. enter a wetland or waterway? ○ Yes ○ No

If yes, describe the type of discharge and show the discharge location on the site plan.

④ Proposed Project Purpose & Description

Project Purpose and Need:

Project Description:

How many project drawing sheets are included with this application? _____

NOTE: A complete application must include drawings and a location map submitted on separate $8^1/_2$ X 11 sheets.

⑤ Project Impacts and Alternatives

Describe alternative sites and project designs that were considered to avoid impacts to the waterway or wetland.

Describe what measures you will use (before and after construction) to minimize impacts to the waterway or wetland.

NOTE: If necessary, use additional sheets.

⑥ Miscellaneous Information

Adjoining Property Owners and Their Addresses and Phone Numbers

List all other approvals or certificates received, applied for, or denied that are related to this application.

Issuing Agency	Type of Approval	Identification Number	Dates of application / Approval / Denial

⑦

City / County Planning Department Affidavit

(to be completed by local planning official)

○ This project is not regulated by the local comprehensive plan and zoning ordinance.

○ This project has been reviewed and is consistent with the local comprehensive plan and zoning ordinance.

○ This project has been reviewed and is **not** consistent with the local comprehensive plan and zoning ordinance.

○ Consistency of this project with the local planning ordinance cannot be determined until the following local approval(s) are obtained:

○ Conditional Use Approval
○ Plan Amendment
○ Other _____
○ Development Permit
○ Zone Change

An application ○ has ○ has not been made for local approvals checked above.

Signature (of local planning official)	Title	City / County	Date

⑧

Coastal Zone Certification

If the proposed activity described in your permit application is within the Oregon coastal zone, the following certification is required before your application can be processed. A public notice will be issued with the certification statement which will be forwarded to the Oregon Department of Land Conservation and Development for its concurrence or objection. For additional information on the Oregon Coastal Zone Management Program, contact the department at 1175 Court Street NE, Salem, Oregon 97310 or call 503/373-0050.

Certification Statement

I certify that, to the best of my knowledge and belief, the proposed activity described in this application complies with the approved Oregon Coastal Zone Management Program and will be completed in a manner consistent with the program.

Applicant Signature	Date

⑨

Signature for Joint Application (REQUIRED)

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that local permits may be required before the state removal-fill permit is issued. I understand that payment of the required state processing fee does not guarantee permit issuance.

Applicant Signature	Date

I certify that I may act as the duly authorized agent of the applicant.

Authorized Agent Signature	Date

Supplemental Wetland Impact Information*
(For Wetland Fills Only)

Site Conditions of impact area

Impact area is ❍ Ocean ❍ Estuary ❍ River ❍ Lake ❍ Stream ❍ Freshwater Wetland

Note: Estuarian Resource Replacement is required by state law for projects involving intertidal or tidal marsh alterations. A separate Wetlands Resource Compensation Plan may be appended to the application.

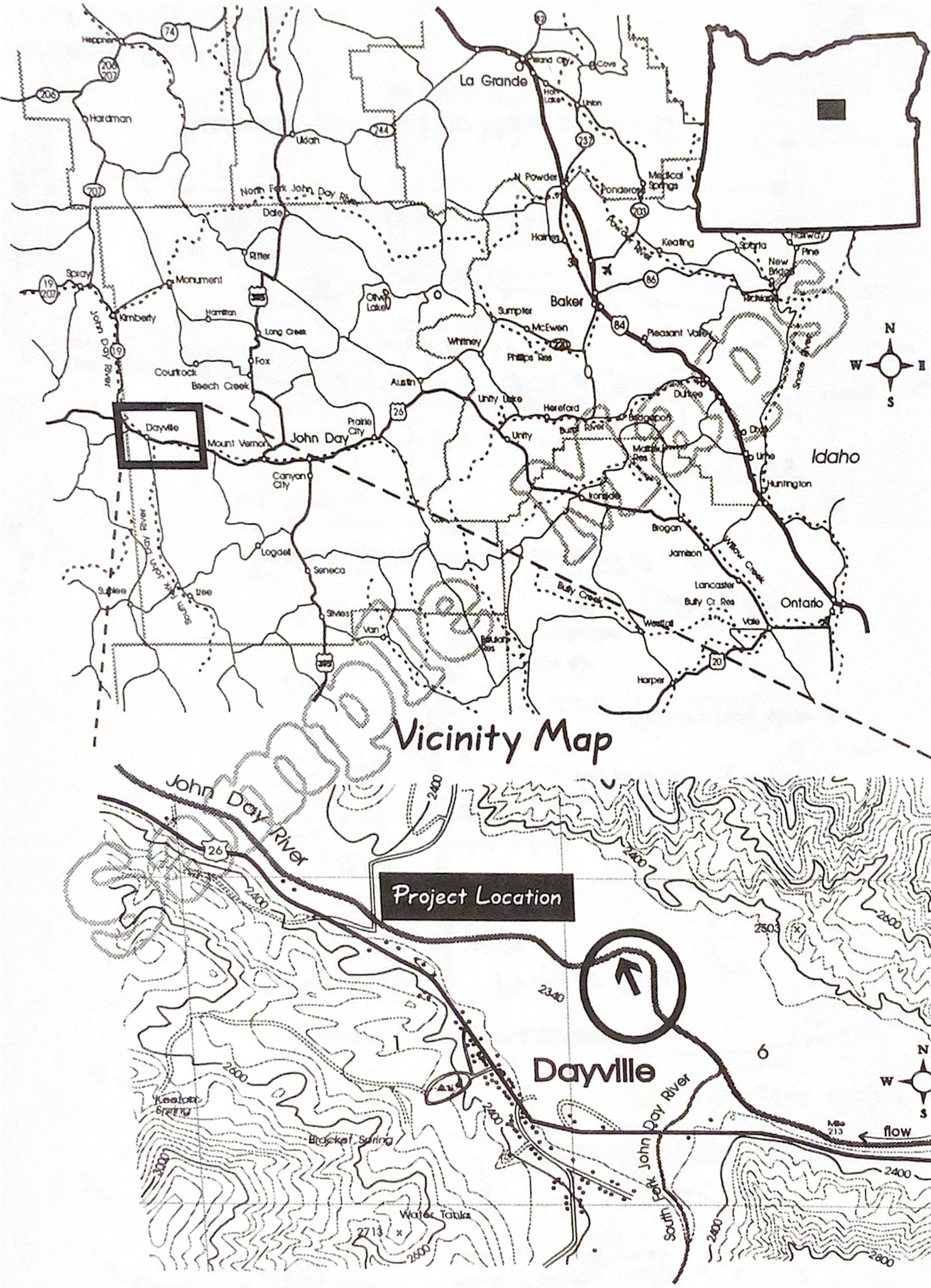
Has a wetland delineation been completed for this site? ❍ Yes ❍ No
If yes, by whom:

Describe the existing Physical and biological character of the wetland/waterway site by area and type of resource (use separate sheets and photos, if necessary)

Resource Replacement Mitigation

Describe measures to be taken to replace unavoidably impacted wetland resources

* Because this information is not necessary for a complete application, you may submit this sheet and other environmental information after submitting your application.

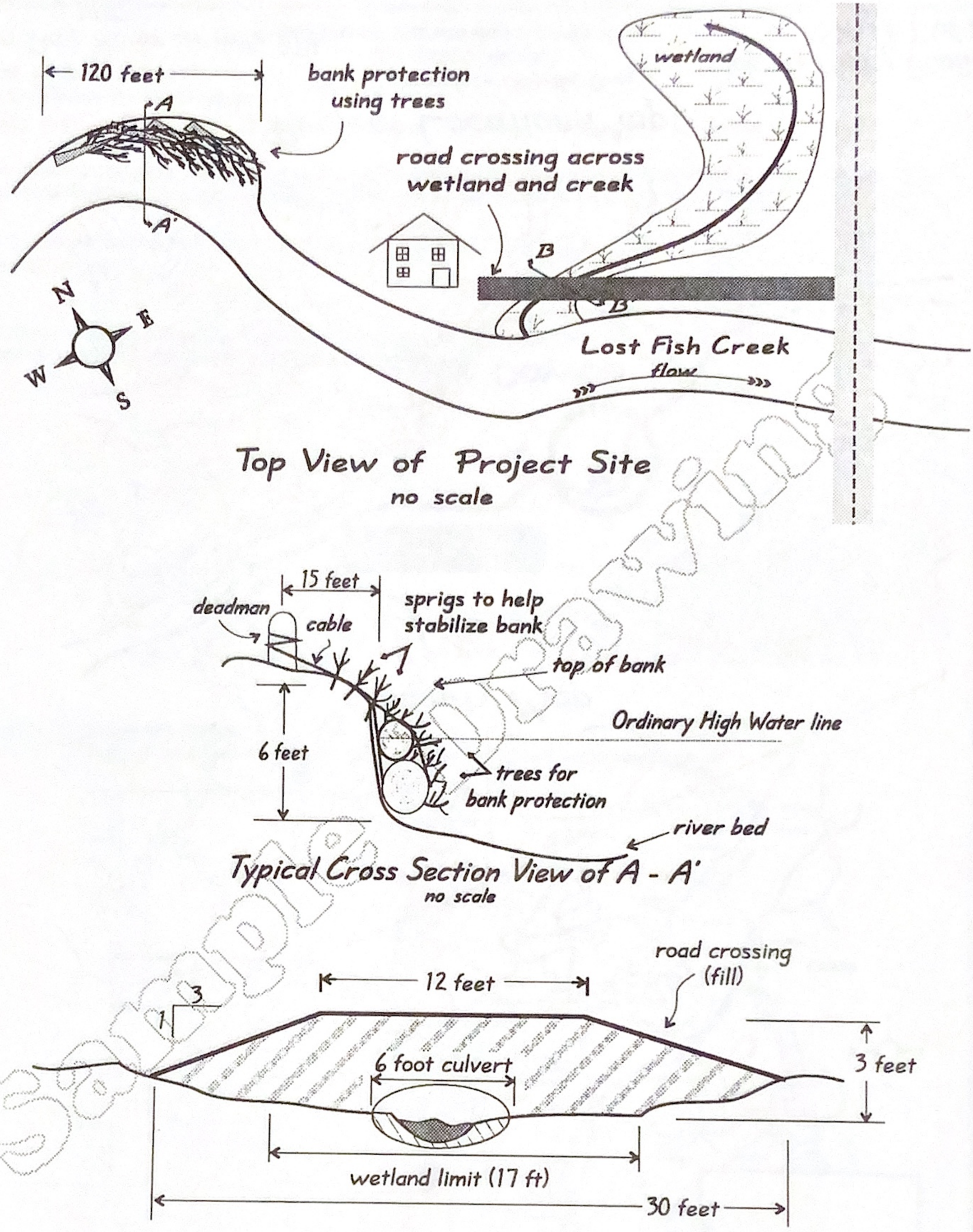


Project Location Map

USGS Quadrangle - Dayville, Oreg

Bank Protection
John Day River at mile 214
January 1992

John & Mary Public
Sheet 1 of 2



Top View of Project Site

no scale

Typical Cross Section View of A - A'

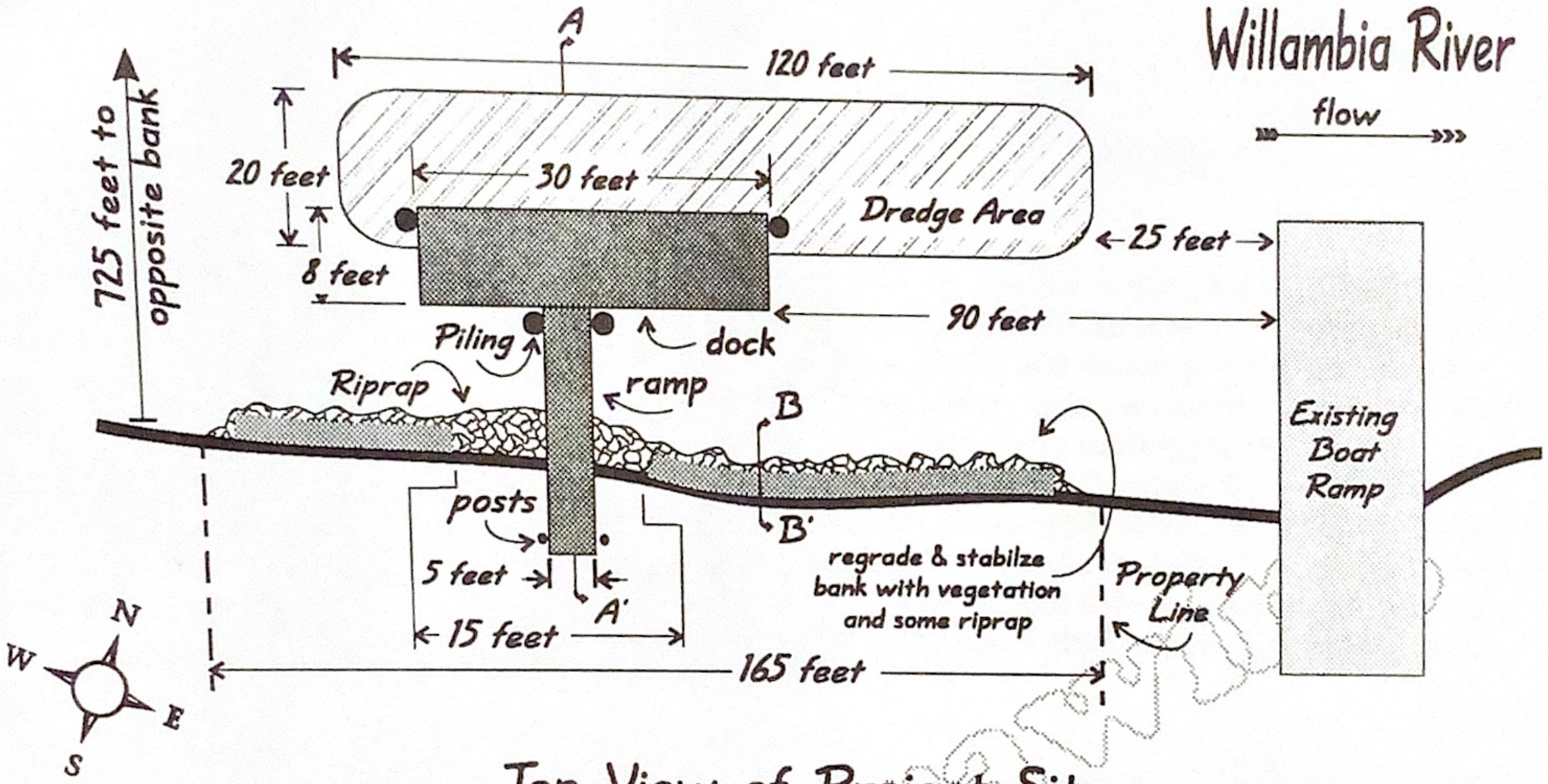
no scale

Typical Cross Section View of B - B'

no scale

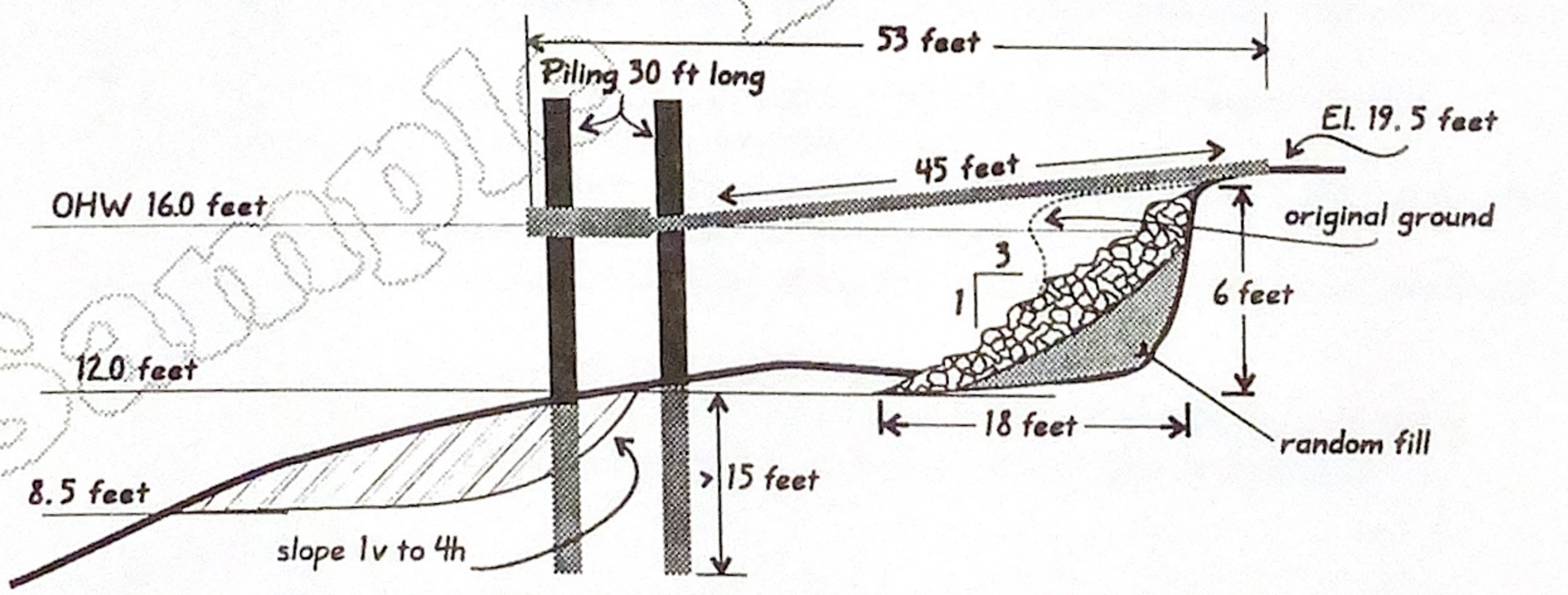
Bank Protection & Road Fill
t Fish Creek & Adjacent Wetland
ry 1992

Mary Doe Public
Sheet 2 of 2



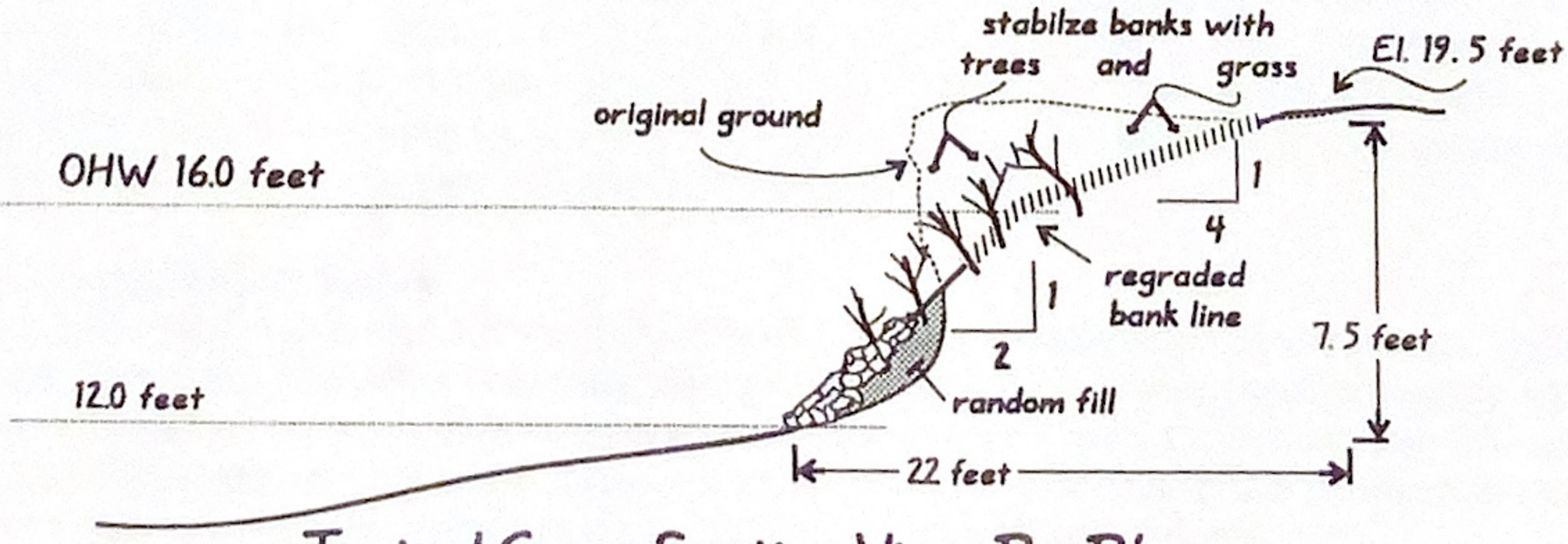
Top View of Project Site

no scale



Typical Cross Section View A-A'

no scale



Typical Cross Section View B - B'

no scale

Boat Dock & Bank Protection
Willambia River at mile 102.3
January 1992

John Q. Public
Sheet 2 of 2